

DRAFT—Monday, June 16, 2003

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STATE OF WASHINGTON
DANGEROUS WASTE MANAGEMENT PERMIT
FOR CORRECTIVE ACTION

Department of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, Washington 98008

FILE COPY

Issued in accordance with the applicable provisions of the Hazardous Waste Management Act in Chapter 70.105 Revised Code of Washington (RCW), and the regulations promulgated thereunder in Chapter 173-303 Washington Administrative Code (WAC).

ISSUED TO:

Burlington Environmental, Inc.
(a wholly-owned subsidiary of Philip Services Corporation)
955 Powell Avenue, SW
Renton, Washington, 98055

And

Port of Seattle
PO Box 1209
Pier 69
Seattle, Washington, 98111

FOR:

Pier 91 Tank Farm
2001 West Garfield Street
Seattle, Washington, 98119

This Permit is effective as of _____, 2003, and shall remain in effect until _____, 2013 unless revoked and reissued, modified, or terminated under WAC 173-303-830(3) and (5) or continued in accordance with WAC 173-303-806(7).

ISSUED BY: WASHINGTON STATE DEPARTMENT OF ECOLOGY

Julie Sellick, Supervisor
Department of Ecology
Hazardous Waste & Toxics Reduction Program
Northwest Regional Office

USEPA RCRA



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INTRODUCTION

PERMITTEES: Burlington Environmental Inc., a wholly-owned subsidiary of Philip Services Corporation, and the Port of Seattle

I.D. Number: WAD000812917

Pursuant to Chapter 70.105 RCW, the Hazardous Waste Management Act of 1976, as amended, and regulations codified in Chapter 173-303 WAC, a permit is issued to Burlington Environmental Inc., (a wholly-owned subsidiary of Philip Services Corporation) and the Port of Seattle (jointly referred to as the Permittees) to conduct corrective action at the Pier 91 Tank Farm (Tank Farm), a four-acre parcel located at 2001 West Garfield Street, Seattle, Washington 98119 (latitude 47 degrees 38 minutes 08 seconds North and longitude 122 degrees 22 minutes 50 seconds West). The Permittees must comply with all conditions of this Permit.

The State of Washington's hazardous waste management program has received authorization from the U.S. Environmental Protection Agency. The Washington State Department of Ecology (Ecology) is the agency of the State of Washington with authority to issue this Permit in accordance with Chapter 70.105 RCW. Ecology is responsible for enforcement of all conditions of this Permit. Prior to seeking any further review, any person or entity asserting a challenge to any permit condition or permit decision, including the Permittees, must appeal such permit condition or decision administratively to the Pollution Control Hearings Board in accordance with WAC 173-303-845.

PART I - GENERAL CONDITIONS

I.1 The Permittees shall comply with all requirements of WAC 173-303-810, which are hereby incorporated by reference into this Permit.

I.2. Modifications to the Agreed Order shall not require a permit modification, except when required by WAC 173-303-830, Appendix I (N)(5) to incorporate a substantial change requiring public comment under WAC 173-340-600. *equivalent to 270.42?*

PART II - CORRECTIVE ACTION

II.1. Ecology is requiring that the Permittees fulfill corrective action responsibilities for the Tank Farm using an enforceable Agreed Order issued pursuant to the Model Toxics Control Act (MTCA), as amended, (Chapter RCW 70.105D) and its implementing regulations (Chapter 173-340 WAC), and the Dangerous Waste Regulations [(Chapter 173-303 WAC – specifically, WAC 173-303-646 (2), (3), (7) & (8))]. See Section III.1, *infra*. The actions taken under the MTCA Agreed Order will meet or exceed all substantive corrective action requirements of the Resource Conservation and Recovery Act (RCRA) and the Dangerous Waste Regulations.

The Permittees' corrective action obligations with respect to the Tank Farm under the Agreed Order are enforceable conditions of this Permit under the authority of Chapter 70.105 RCW and Chapter 173-303 WAC.

II.2. Ecology is requiring that the corrective action responsibilities, for the 120-acre uplands, using the MTCA independent remedial action process as provided for in WAC 173-340-515. If the independent remedial action fails to provide the necessary protection of human health and the environment, Ecology reserves the right to issue a corrective action order that covers portions of the 120-acre upland area at Pier 91 that still need remedial action. Any corrective action will be incorporated into this permit as required by WAC 173-303-646(3)(c).

Mary Q: Should make this a permit condition

VCP vs Permit are incompatible concept

PART III - CORRECTIVE ACTION CONDITIONS

III.1. Agreed Order No. DE 98HW-N108 (Agreed Order), effective April 10, 1998, was issued pursuant to the Model Toxics Control Act (MTCA), Chapter 70.105D RCW, as amended, and its implementing regulations, Chapter 173-340 WAC. The Agreed Order and its attachments are incorporated by reference as fully enforceable under this Permit. Regardless of whether or not the Agreed Order is vacated, the Permittees' corrective action obligations continue to be enforceable conditions of this Permit under the authority of the Hazardous Waste Management Act (HWMA), Chapter 70.105 RCW, and its implementing regulations, Chapter 173-303 WAC.

III.2. The Permittees shall complete and submit a focused remedial investigation and feasibility study (RI/FS) proposing remedial alternatives for the Tank Farm. Schedules for the completion of the RI/FS and implementation of remedial alternatives are as set forth in the Agreed Order.

III.3. When Ecology selects a cleanup option for the four-acre Tank Farm, this permit will be modified as needed to include the remedy and incorporate by reference any associated order or consent decree. When Ecology determines that corrective action for both the four-acre Tank Farm and the 120-acre uplands are complete and that no further action is needed, the permit will be terminated.

Don't include termination language.

III.4. Compliance with the terms of this Permit does not constitute a defense to any order issued or any action brought under any other state or federal laws governing protection of public health or the environment. However, compliance with the terms of this permit does constitute a defense to any action alleging failure to comply with the applicable standards upon which this Permit is based.

III.5. Pursuant to WAC 173-303-806(6), the Permittees shall submit a new application for a final status permit 180 days prior to the expiration date of this permit, unless Ecology grants a later date provided that such date is not later than the expiration date of the Permit. This Permit and all its conditions will remain in effect beyond the Permit's expiration date until Ecology has made a final permit determination if: (1) the Permittees have submitted a timely application for a final status permit; (2) Ecology determines that the final status permit application is complete as set forth in WAC 173-303-840(1)(b); and (3) Ecology has not made a final permit determination as set forth in WAC 173-303-840. If the Permittees fail to comply with the terms and conditions of the expiring or expired permit, then Ecology may take action consistent with WAC 173-303-806(7)(b). If the Permittees fail to submit a timely, complete application as required herein, then those permit conditions necessary to protect human health and the environment will remain in effect beyond the Permit's expiration date in accordance with WAC 173-303-815(2)(b)(ii), until Ecology terminates the conditions.